

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **VICE CHAIRMAN, MIKE SPRAGUE**, on January 28,
2003 at 9:02 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddy McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 151, 12/30/2002
Executive Action: SB 151; SB 153; SB 216

{Tape: 1; Side: A}

HEARING ON SB 151

Sponsor: SENATOR DALE MAHLUM, SD 35, MISSOULA

Proponents: Mona Jamison, Montana Life and Health Insurance Association; Eliza Frazer, Montana Life and Health Guaranty Association; Jane Lopp, insurance agent and financial planner affiliated with Prudential and secretary-treasurer for the Montana Life and Health Guaranty Association; Jacqueline Lenmark, American Council of Life Insurers; Don Allen, Montana Association of Insurance and Financial Advisors; Frank Cote, insurance agent and citizen; Lloyd D. Bender, Board Member, Montana Life and Health Guaranty Association.

Opponents: None

Informational Witnesses: Betsy Griffing, Chief Counsel, Montana State Auditor's Office; and Brian Spano, Counsel for the Montana Life and Health Guaranty Association.

Opening Statement by Sponsor:

SEN. DALE MAHLUM explained that this bill is necessary for the citizens of Montana. It deals with the Montana Life and Health Insurance Guaranty Association Act. SB 151 tightens some controls over insurance companies who are assessed the funds necessary for the Montana association to provide benefits for policyholders. He gave the explanation of 100 companies domiciled outside of Montana, but who do business in Montana. To do that business, they have to pay to Montana Life and Health Insurance Guaranty Association a membership fee, which is a small percentage of their premiums. This is put into a fund used in case one company goes bankrupt, the association will come in and take over the assets of that company so the policyholders in Montana are not stuck with the loss. The bill also says that the major medical protection would be raised from \$100K to \$500K with disability income insurance coverage raised to \$300K. The bill discusses some changes, which SEN. MAHLUM explained. The whole concept of the bill is to help Montana policyholders.

Proponents' Testimony:

Mona Jamison, Montana Life and Health Insurance Association, presented written testimony, EXHIBIT (bus18a01).

Eliza Frazer, Montana Life and Health Guaranty Association, said the workings of the association are very simple in that it provides protection to consumers who get insurance policies and

arcane in that it deals with insurance laws. This bill raises the limit of the insurance citizens of Montana can receive and also makes it easier to work with all of the different states due to insolvency or other issues. She urged the committee to support the bill.

Jane Lopp, insurance agent and financial planner affiliated with Prudential and secretary-treasurer for the Montana Life and Health Guaranty Association, stated there are five companies represented on the board. She spoke from an industry point of view about the Guaranty Association Act. One of the things this bill allows is that the Guaranty Association stands in the shoes of the insolvent company for the purposes of reinsurance. The idea was that the law would be used so that it's seamless when there is a crisis and policyholders needs can be addressed. She urged the committee's support of the bill.

Jacqueline Lenmark, American Council of Life Insurers, offered her organization's strong support of SB 151. She had one small clean-up amendment on page 13, line 14. It should be changed to allowing the venue in the suit to be in the First Judicial District.

Don Allen, Montana Association of Insurance and Financial Advisors, gave his support to the bill.

Frank Cote, insurance agent and citizen, shared that he had the unique privilege over the last two years of being the special deputy rehabilitator of a financially impaired insurance company called Montana Benefits Life Company. At the time, it was the second largest health insurance company in Montana insuring approximately 17K Montanans. One of his first concerns was that the Guaranty Association only covered \$100K for a claim. This bill would eliminate future concerns in that area. He urged the committee to pass the bill.

Lloyd D. Bender, Board Member, Montana Life and Health Guaranty Association, offered written testimony, **EXHIBIT**(bus18a02).

Opponents' Testimony: None

Informational Witnesses:

Betsy Griffing, Chief Counsel, Montana State Auditor's Office, said it was with the help of **Brian Spano, Counsel for the Montana Life and Health Guaranty Association,** that this highly-technical bill was drafted. She then gave an overview of the bill and said they would be available for any questions.

Questions from Committee Members and Responses:

SEN. KIM HANSEN asked **SEN. MAHLUM** if the amendment suggested by **Ms. Lenmark** was acceptable. **SEN. MAHLUM** thought it would be a good idea.

SEN. MAHLUM requested that **Mr. Spano** give informational testimony regarding the definitions of an unallocated annuity and a structured settlement annuity. **Mr. Spano** advised the committee that there are two ways an unallocated annuity is used by insurance companies. First and foremost, it is usually provided as an investment option in retirement accounts, most often 401K plans. It is one of the most conservative investments you can have in a retirement plan. It allows the employee to buy a piece of an annuity that had been purchased by the employer from an insurance company.

{Tape: 1; Side: B}

A structured settlement annuity helps people who are catastrophically injured in accidents or for minors who have been injured in one way or the other. Under the Internal Revenue Code, you can buy from an insurance company a structured settlement annuity that guarantees payments to that injured individual over a given period of time. **Mr. Spano** continued to say that money is tax free. The coverage is critical because it will guarantee that each insured individual will get \$100K under their structured settlement annuity. He shared that Section 3(7) and Section 16(4 and 5) are intended to prevent double dipping. You can only be paid once for your losses.

SEN. VICKI COCCHIARELLA inquired of **Mr. Spano** the number of other states who have similar associations. He replied that every state in the nation plus Guam and Puerto Rico have one of these associations. **SEN. COCCHIARELLA** wanted to know what type of situation could arise that we would have to worry about another state not having an association. **Mr. Spano** replied you would not.

SEN. COCCHIARELLA discussed having a life insurance policy of \$1M or \$2M and not ever being able to recoup the full value of the policy. **Mr. Spano** concurred. One piece not addressed here was the ability of an insured being able to sue the insolvent estate and its assets for the remainder of a policy over and above the \$300K floor guaranteed by the Guaranty Association. The Guaranty Association provides a minimum level of recovery, but it is not a cap on the recovery possible from the company's assets.

SEN. DON RYAN referred to page 26, line 24 through 26. **Mr. Spano** replied the obligations will not be borne by all of the policyholders, but by the companies doing business in the state that are assessed a percentage of the premiums on the policies they sell in this state.

At the request of **SEN. RYAN**, **Ms. Griffing** explained that records or negotiations pertaining to an impaired or insured may be made public only upon termination of a liquidation.

Closing by Sponsor:

SEN. MAHLUM closed by saying this is a good bill that helps policyholders in Montana.

EXECUTIVE ACTION ON SB 151

SEN. KELLY GEBHARDT moved **DO PASS** on SB 151 as amended, **EXHIBIT (bus18a03)** (181132SC.ssc). The vote was 10 to 0 in favor.

EXECUTIVE ACTION ON SB 153

SEN. MAHLUM shared a letter from **SEN. WALTER MC NUTT**, **EXHIBIT (bus18a04)**, in which he requested that, due to the recent turn of events involving the State Fund, he did not feel it would be prudent to go through a hearing. He asked that the SB 153 be indefinitely postponed.

SEN. COCCHIARELLA explained that the study done last summer came from a special session bill. She said State Fund had several issues the committee considered, such as using their own computer programs and protecting the surplus in the State Fund. She explained that there were so many items they wanted that it made it more like a private entity and legislators can only create government. The members of committee agree that the bill needs to be tabled at this time.

SEN. MAHLUM carried a proposed bill to change the name of the State Fund to Comp Source Montana. That bill never was picked up, so that is one that won't be heard here.

SEN. COCCHIARELLA said the "indefinitely postpone" a bill by request of the sponsor is a new rule this session.

SEN. GEBHARDT moved that SB 153 be **INDEFINITELY POSTPONED**. The vote was unanimous in favor.

EXECUTIVE ACTION ON SB 216

SEN. SPRAGUE moved **DO PASS** on SB 216. The vote was unanimous in favor.

{Tape: 2; Side: A}

Discussion on SB 124:

An informal sub-committee met after today's meeting to discuss SB 124.

ADJOURNMENT

Adjournment: 10:48 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus18aad)